



# PROSECUTORS AND HATE CRIMES TRAINING (PAHCT)

## PROGRAMME DESCRIPTION



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## BACKGROUND

Prosecutors and Hate Crimes Training (PAHCT) is a programme designed to increase the skills of prosecutors in recognizing, investigating and prosecuting hate crimes.

Hate crimes pose a threat to security and may give rise to conflict and violence on a wider scale. Addressing hate crimes effectively requires a multi-faceted approach involving the political leadership, justice system, social services and civil society of a state. Prosecutors play a central role in the criminal justice response to hate crimes.

Participating States of the Organization for Security and Co-operation in Europe (OSCE) have recognized the threat posed by hate crimes, as well as the need for a comprehensive response, and have committed themselves to:

- enact tailored legislation to combat hate crimes;
- investigate hate crimes promptly and ensure that the motives of those convicted of hate crimes are acknowledged; and
- introduce or further develop training for law enforcement, prosecution and judicial officials dealing with hate crimes.<sup>1</sup>

PAHCT was developed by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) as part of its wide-ranging set of tools for

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<sup>1</sup> The principal commitments against hate crimes can be found in OSCE Ministerial Council, Decision No. 9/09, “Combating Hate Crimes”, Athens, 2 December 2009, <<http://www.osce.org/cio/40695>>.

responding to hate crimes. It complements the ODIHR manual *Prosecuting Hate Crimes: A Practical Guide*, as well as ODIHR's programmes on Training Against Hate Crimes for Law Enforcement (TAHCLE) and training against hate crimes for civil society.<sup>2</sup>

This publication describes the PAHCT programme and outlines its implementation. Participating States interested in further information are encouraged to contact ODIHR, either directly or through their country's mission to the OSCE in Vienna.

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2 *Prosecuting Hate Crimes: A Practical Guide* is available at <<http://www.osce.org/odihr/prosecutorsguide>>. Other tools include a practical handbook on hate crime laws, a resource guide for non-governmental organizations on preventing and responding to hate crimes, ODIHR's Hate Crime Reporting website at <<http://hatecrime.osce.org/>> and other publications and activities. For more information, see <<http://www.osce.org/odihr/tolerance>>.

## WHAT IS PAHCT?

PAHCT is a training programme for prosecutors on responding to hate crimes. It is tailored to the needs and experiences of each country that decides to implement it.

PAHCT is short, compact and flexible. It is designed to be integrated into existing training efforts and to draw on local resources.

PAHCT has a standard curriculum that is then customized to conform with the laws, criminal justice procedures and individual hate crime context of the implementing state. PAHCT is best implemented in co-operation with national training institutions for prosecutors and prosecutorial authorities.

PAHCT can be delivered either as a training of trainers or as training sessions provided directly to prosecutors. The training of trainers lasts three days, while a typical course for prosecutors takes just one-and-a-half days.

Prosecutors are the principal beneficiaries of the PAHCT programme. Judges and police investigators can also benefit from participating in the programme.

## WHY IMPLEMENT PAHCT?

The PAHCT programme aims to increase the effectiveness of prosecutors in investigating and prosecuting hate crimes.

To accomplish this, the programme develops trainees' knowledge, motivation and skills to address hate crimes. PAHCT courses – outlined in Annexes 4 and 5 – aim to help prosecutors understand what hate crimes are, why they deserve special attention and how to prosecute them most effectively. Participants increase their understanding of the concept, context and impact of hate crimes, consolidate their knowledge of international standards and domestic hate crime laws and improve their ability to prove hate crimes in court.

The implementation of PAHCT will contribute to:

- ensuring the effective investigation and prosecution of hate crimes;
- building constructive ties with marginalized or threatened groups in society;
- contributing to crime prevention;
- promoting increased co-operation and synergies among criminal justice agencies; and
- ensuring that prosecution practices protect and promote human rights and non-discrimination.

Joint training sessions for prosecutors and judges, or for prosecutors and investigators, can strengthen institutional co-operation when prosecuting hate crimes.

## METHODOLOGICAL PRINCIPLES

### Flexible

- The design of the programme is based on local resources and needs.
- Course materials are adapted to reflect local laws and the domestic context of hate crimes.
- Courses are tailored to the role and previous knowledge of participants.
- Courses and course materials are prepared in the local language.
- Training can be delivered either as a training of trainers or directly to beneficiaries.

### Locally owned

- The programme is implemented on the basis of a request by the authorities.
- National authorities are involved in the design of the courses.
- The training curriculum and trained trainers are resources that stay in the country following the implementation of the programme.

### Integrative

- ODIHR's training curriculum is integrated into existing training structures, including at the national training institution.

- The preparation of training materials and the training sessions bring together representatives of various agencies involved in hate crime prosecutions.
- The programme is inclusive. Consultation with civil society and community representatives is a crucial element in developing the course. The programme implementation builds trust between communities and government.

#### Human rights based

- The programme follows a human rights-based approach.
- The training includes a focus on the victims of hate crimes and helps participants to understand their experiences.

#### Expert based

- The training team is composed of professional trainers and experts with experience in prosecuting hate crimes. Ideally, the experts will have an understanding of and experience working within the local context.
- The training is informed by ODIHR's long-standing expertise in addressing hate crimes and in developing co-operative training programmes with criminal justice agencies throughout the OSCE region.

#### Interactive and motivational

- The training is interactive and employs a learning-by-doing approach. Other interactive tools, such as role playing and case discussions, are also used.
- The training is motivational. It builds not only knowledge and technical skills but also motivates the participants to address hate crimes actively.

#### Transparent and accountable

- The programme's implementation is monitored to identify difficulties and recognize good practices that can be replicated.
- Upon completion, the programme is evaluated to help ensure its sustainability and to facilitate the initiative's integration into comprehensive policy efforts aimed at addressing hate crimes.

## IMPLEMENTATION STEPS

The programme requires commitment from the authorities and the adequate allocation of resources and time. Political commitment ensures that the programme is fully implemented and that participants understand that it has the support of their leadership.

The typical steps in the implementation of PAHCT are outlined below.

### Step One: Initial Request

Any participating State or OSCE field operation (within the framework of its mandate) may request that ODIHR assist the participating State through the implementation of the PAHCT programme.

### Step Two: Desk Review and Consultation on the Scope of Intervention

Based on existing information, as well as new information gathered as a result of a desk review, and in close consultation with authorities and other relevant actors, ODIHR will recommend the optimal scale of implementation of PAHCT.

ODIHR's assessment will depend on the following elements:

- the extent and nature of hate crimes in a particular country;
- the effectiveness of current hate crime prosecutions;
- the level of available resources and personnel;
- how PAHCT can be integrated into existing training initiatives and structures; and

- the scope of other training programmes on hate crimes (such as TAHCLE).

Bearing in mind the results of the assessment, ODIHR and the requesting state will agree on the appropriate scale of implementation of PAHCT. Two options are available: (1) the training of trainers, who will then train national prosecutors; and/or (2) the direct delivery of training by ODIHR to programme beneficiaries.

Should the authorities commit to the first option, which is a more comprehensive version of the PAHCT programme, all of the steps below should be carried out. If the authorities prefer a more limited programme of direct training by ODIHR, some of the steps below would not be needed, depending on the agreed scope of the programme.

### Step Three: Memorandum of Understanding

The national authorities (including the Ministry of Justice, the Prosecutor General's Office or a national training institution) and ODIHR sign a Memorandum of Understanding (MOU), which outlines the responsibilities of each party and sets out a mutually-agreed basis on which all phases of the programme will be implemented.

A sample text of an MOU is available in Annex 1.

### Step Four: Nomination of a National Liaison Officer

Following the signing of the MOU, the host state assigns a National Liaison Officer (NLO) to support programme development and implementation. The role, responsibilities and suggested qualifications of the NLO are described in Annex 2.

### Step Five: National Implementation Working Group

The host state appoints a National Implementation Working Group (Working Group), composed of staff of institutions relevant to prosecutors' training. The main tasks of the Working Group are to:

- provide information and recommendations on the part(s) of the training curriculum that need to be customized to match the local context;
- review and approve the curriculum before it is finalized;
- ensure that issues arising in the course of the delivery and implementation of the PAHCT are dealt with effectively;
- co-ordinate follow-up activities conducted after the implementation PAHCT; and
- define, together with ODIHR, the parameters for the monitoring and evaluation of the programme.

Meetings of the Working Group are normally convened and chaired by the NLO. Sample terms of reference for the Working Group can be found in Annex 3.

### Step Six: Introductory Workshop (optional)

As an optional but recommended step, ODIHR suggests the delivery of a one-day workshop with mid-level and senior government and prosecution officials to raise awareness about hate crimes and explain how the PAHCT programme works and what it entails. The workshop can also help highlight specific issues to be addressed during the needs assessment or when customizing the curriculum.

### Step Seven: Needs Assessment

ODIHR conducts a visit to identify training needs and feed substantively into the customization process outlined below. The needs assessment visit complements the desk review, leading to a decision on the scope of implementation (step two).

The objectives of the needs assessment are to:

- assess the nature and, where possible, the extent of hate-motivated violence, as well as the capacity of police, prosecutors, communities and civil society to address the issue;
- understand the current policies in place and prosecutors' approach to hate crimes;
- identify prosecutorial structures and the relevant legal framework; and
- understand the local approach to training.

The needs assessment visit relies on the NLO to co-ordinate and convene focus group sessions and meetings with prosecutors, police officials and other relevant authorities, such as institutions dealing with minority groups and human rights, civil society organizations and, where relevant, OSCE field operations and international organizations.

ODIHR summarizes the information gathered during the needs assessment visit in a report, which is shared with the Working Group.

### Step Eight: Customization

ODIHR is responsible for drafting the curriculum, in consultation with the host government. First, ODIHR and the Working Group agree on the general structure and content of the curriculum. The curriculum includes sections that are standardized and sections that need to be customized. Then, ODIHR and the Working Group agree on a process that will enable ODIHR to collect the information needed for the customized part of the curriculum.

ODIHR prepares the curriculum and the training materials for review by the Working Group. The curriculum is translated into the host country's language and approved by the Working Group.

### Step Nine: Delivery of Training

The training venue will be provided by the authorities. The ODIHR training team will generally be supplemented by national and/or international experts with prosecutorial experience or knowledge in other fields relevant to hate crimes. Evaluation of the training is conducted at the end of the session through a questionnaire and a feedback session.

Where the training of trainers takes place, participants will be trained both in approaches to addressing hate crimes and in effective methods of training others. Feedback provided by participants and results of the evaluation of the training of trainers will be used to amend the training curriculum and agenda to ensure their optimal use by the national training institutions.

### Step Ten: Cascade Training

Following the completion of the training of trainers, the customized PAHCT curriculum is handed over to the local authorities. The authorities are responsible for implementing the training for prosecutors in line with the MOU.

### Step Eleven: Monitoring

The Working Group will inform ODIHR about training activities conducted as part of the programme's implementation. Specifically, the following information will be provided:

- the number of training sessions;
- the number and background of trained participants;
- the training materials used; and
- feedback and suggestions.

ODIHR and the Working Group will meet in the course of the training to monitor the implementation of the programme.

### Step Twelve: Evaluation and Presentation of Results

ODIHR will facilitate the evaluation of the implementation of the programme. This includes the evaluation of the training of trainers and the evaluation of the training that is delivered in national training institutions. The composition of the evaluation team will be agreed upon with the Working Group. Ideally, it should include an international, independent evaluator and a national expert, who could be a member of or appointed by the Working Group.

The specifics of the evaluation approach are defined in close co-operation with the Working Group. Normally, the outcomes of the programme are evaluated against the following indicators: knowledge and understanding; skills and behaviour; and attitudes and values. The results of the evaluation will be presented to the national authorities.



## FOLLOW-UP: DEVELOPMENT OF FURTHER TOOLS TO ENHANCE RESPONSE TO HATE CRIMES

At the request of the national authorities and in co-operation with the Working Group, ODIHR can assist in the development of other practical tools, further enhancing prosecutorial response to hate crimes.

The following initiatives could be considered:

- the development of monitoring and recording mechanisms for the effective collection of data on all aspects of hate crimes prosecution;
- the elaboration of prosecutorial policies/guidelines for use in prosecuting hate crime cases or supervising hate crime investigations;
- mainstreaming gender considerations into the work of prosecutors' offices on hate crimes;
- the creation of a special unit or focal points in prosecutors' offices to help ensure that hate crimes are addressed effectively;
- steps to enhance interagency co-operation and strengthen a comprehensive approach in responding to hate crimes; and
- the elaboration of a communications and engagement strategy on hate crimes, including steps such as outreach to local communities, partnerships with civil society, public awareness campaigns to combat hate crimes and a media strategy to ensure the appropriate dissemination of information on hate crime prosecutions to the public.

## COST-SHARING

While cost-sharing arrangements will be detailed in the MOU, in general, for all stages of the PAHCT programme's implementation, ODIHR will cover costs related to:

- ODIHR staff and trainers (such as travel, remuneration and accommodation);
- the translation of training materials and interpretation services during training sessions; and
- the evaluation of the programme.

The host state's authorities will usually provide for:

- the venue for meetings with the authorities;
- the training venue and training equipment (such as projector and flip-chart); and
- participant-related costs (such as travel, accommodation and food).

Following the completion of the training of trainers and the handover of the training curriculum to the local authorities, all subsequent training costs will be borne by the host state.

## ANNEXES

### ANNEX 1: Sample Memorandum of Understanding

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**Memorandum of Understanding  
between  
The [Partner Institution<sup>3</sup>] of [participating State X]  
and  
The OSCE Office for Democratic Institutions and Human Rights  
regarding  
Implementation of the Prosecutors and  
Hate Crimes Training Programme**

The [Partner Institution] of [participating State X] and the OSCE Office for Democratic Institutions and Human Rights (ODIHR),

On the basis of mutual interests and convinced that hate crimes constitute a violation of human rights and a threat to the rule of law and democratic stability,

Recalling the provisions of:

- The OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century (2003),
- The Athens OSCE Ministerial Council Decision No. 9/09 on Combating Hate Crimes,
- The International Convention on the Elimination of All Forms of Racial Discrimination (1965),

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<sup>3</sup> Typically, the Memorandum of Understanding will be concluded between ODIHR and the General Prosecutor's Office, the Ministry of Justice or the National Training Institution for prosecutors and judges.

Recognizing that the ODIHR Prosecutors and Hate Crimes Training programme (hereinafter referred to as PAHCT) was developed in order to provide OSCE participating States with training for prosecutors on hate crimes,

Convinced that a partnership between the [Partner Institution] and ODIHR on the implementation of PAHCT will assist in achieving mutual goals and objectives in the fight against hate crimes,

Have agreed as follows:

**The [Partner Institution] of [participating State X] shall:**

1. Appoint [by.....] a National Liaison Officer as its authorized representative to work with ODIHR and co-ordinate the implementation of PAHCT;
2. Appoint [by.....] a National Implementation Working Group to advise on the customization of the curriculum, to ensure effective implementation of PAHCT and to facilitate monitoring, evaluation and follow-up activities;
3. Appoint [number of] prosecutors to be trained as trainers to deliver PAHCT and [number of] prosecutors to receive the one-and-a-half day long PAHCT course;
4. Facilitate PAHCT planning and delivery, including through the provision of logistical and infrastructure support for the train-the-trainers portion of the programme and the subsequent direct delivery of PAHCT to prosecutors;
5. Ensure institutionalized integration of PAHCT into the national training curriculum for prosecutors;
6. Invite ODIHR to observe training sessions and assist with programme evaluation; and
7. Ensure that the costs of PAHCT implementation, related to training venues, training equipment and participants-related costs are covered by the Government of [participating State X].

**ODIHR shall:**

1. Appoint a Liaison Officer as its authorized representative to work with the [Partner Institution] on the development and implementation of the PAHCT programme;
2. Offer an introductory, one-day workshop to familiarize officials with PAHCT and to raise awareness of key issues to consider when addressing hate crimes;
3. Undertake a needs assessment visit to establish the basis for designing a customized PAHCT curriculum for [participating State X];
4. Draft a curriculum and consult with the National Implementation Working Group to customize it appropriately;
5. Provide the curriculum and training materials for PAHCT in the required quantity, as well as providing for their translation into [official language of participating State X];
6. Conduct comprehensive training of trainers sessions [or one-and-a half day training sessions delivered directly to beneficiaries] for appointed prosecutors;
7. Conduct a post-implementation evaluation and provide support to the [Partner Institution] in following-up on the programme; and
8. Cover the costs of PAHCT implementation related to ODIHR staff and trainers, the translation of training materials, interpretation services and the programme evaluation.

This Memorandum of Understanding is valid for three years from the date of signature and may be renewed by agreement between the parties.

Signed in [city], on [date] in two originals, in [official language of participating State X] and English, both texts being equally authentic. In case of any difference in interpretation, the English text shall prevail.

For ODIHR

For [Partner Institution]

## **ANNEX 2: Sample terms of reference of the National Liaison Officer**

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The NLO is the principal contact point for the day-to-day planning and operations of PAHCT, and serves as the key liaison between ODIHR and the government. Hence, the NLO is tasked to:

- co-ordinate the agenda for the needs assessment visit with the ODIHR training team, which may include meetings with prosecutors, judges, police representatives, officials from other justice-sector agencies/ministries, human rights bodies and civil society organizations;
- convene and chair the National Implementation Working Group and co-ordinate its activities;
- co-ordinate the organization of, and participation in, the introductory workshop for officials;
- co-ordinate the training of trainers component of PAHCT by ensuring that participants meet the selection criteria, and organize logistical issues relating to training in consultation with ODIHR;
- provide comments and input into the customization of the training materials; and
- provide ODIHR with information relating to the number of training sessions and types of training undertaken, as well as the number and types of trainees/graduates.

**Qualifications:**

- lawyer with substantial experience in training others;
- professional experience of at least eight years in working with criminal justice agencies;
- ability to communicate professionally in English; and
- understanding of issues relating to hate crimes and community engagement would be an asset.

### **ANNEX 3: Sample terms of reference of the Working Group**

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The role of the National Implementation Working Group (the Working Group) is to advise on the customization of the training curriculum, to ensure effective implementation of PAHCT, to facilitate monitoring and to evaluate the programme. The Working Group conducts follow-up activities after the implementation of PAHCT, with a focus on the institutionalization of the curriculum at training institutions.

The Working Group will meet regularly to discuss the progress toward implementing the PAHCT programme. Meetings of the Working Group are normally convened and chaired by the National Liaison Officer.

The Working Group could include representatives of:

- the National Training Institution;
- the Ministry of Justice;
- the Prosecutor General's Office;
- the Human Rights Commission;
- the Ombudsperson's Office;
- the TAHCLE National Liaison Officer;
- the Ministry of Interior;
- civil society; and
- ODIHR and/or OSCE field operation.

For the sake of operational efficiency, the Working Group should be kept relatively small in size; ODIHR recommends five to six people. Preferably, it should include persons with direct decision-making authority. The Working Group is encouraged to invite representatives of other training and academic institutions to its meetings, as well as other relevant stakeholders.

The Working Group is specifically tasked to:

- advise on customization of the curriculum for PAHCT on the basis of the situation in the country;
- together with ODIHR, review the translation of PAHCT course materials to ensure the quality of the translation;
- together with ODIHR, determine the selection criteria for participants in the training of trainers;
- develop a nationwide implementation plan for the trainers to train other prosecutors;
- ensure and monitor the institutionalization of PAHCT in the curricula of the National Training Institution;
- monitor progress of the implementation of PAHCT, including by recording the number of trainings sessions delivered, the number and background of participants, the materials used and feedback provided;
- participate in the evaluation process; and
- as agreed with ODIHR, perform other tasks related to the PAHCT programme implementation, such as:
  - together with ODIHR, developing additional materials to disseminate information about hate crimes among prosecutors and the judiciary;
  - developing a communication and engagement strategy to strengthen partnerships with civil society;
  - advising on the development of monitoring mechanisms for effective collection of data on all aspects of hate crimes prosecutions; and
  - advising on the elaboration of prosecutorial policies/guidelines for hate crime cases or for supervising hate crime investigations.

## ANNEX 4: Sample Agenda of the one-and-a-half day PAHCT

Day 1	
09:00 – 09:45	Introduction
09:45 – 10:15	Experiences from the Community
10:15 – 10:45	Understanding Hate Crimes
10:45 – 11:00	Break
11:00 – 11:30	International and Regional Framework
11:30 – 12:15	Using Local Legislation
12:15 – 12:45	Identifying a Hate Crime Case Using Bias Indicators
12:45 – 13:45	Lunch
13:45 – 14:15	Exploring Diversity
14:15 – 14:45	Case Studies/Working Groups I: Bias Indicators and Initiating a Hate Crime Case
14:45 – 15:00	Break
15:00 – 16:15	Case Studies/Working Groups I: Bias Indicators and Initiating a Hate Crime Case (Continued)
16:15 – 16:30	Conclusions – Day 1
Day 2	
9:00 – 9:20	Recap
9:20 – 10:00	Barriers and Solutions to Prosecuting Hate Crimes
10:00 – 10:35	Case Studies/Working Groups II: Motive Evidence for Prosecuting Hate Crimes
10:35 – 10:50	Break
10:50 – 12:15	Case Studies/Working Groups II: Motive Evidence for Prosecuting Hate Crimes (Continued)
12:15 – 12:45	Conclusions and Evaluations

## ANNEX 5: Sample Table of Contents of the one-and-a-half day PAHCT Curriculum

	Module Title	Purpose	Time (minutes)
1	Introduction	<ul style="list-style-type: none"> <li>Introduce the trainers and participants</li> <li>Explain the goals of the training</li> <li>Develop the ground rules</li> </ul>	45
2	Experiences from the Community	<ul style="list-style-type: none"> <li>Discuss the extent of bias and prejudice in the local context</li> </ul>	30
3	Understanding Hate Crimes	<ul style="list-style-type: none"> <li>Discuss the specific attributes of hate crimes</li> </ul>	30
4	International and Regional Framework	<ul style="list-style-type: none"> <li>Introduce international and regional obligations to investigate, prosecute and sentence hate crimes</li> </ul>	30
5	Using Local Legislation	<ul style="list-style-type: none"> <li>Acquire an understanding of all the aspects of national hate crime provisions and how they can be used</li> </ul>	45
6	Identifying a Hate Crime Case Using Bias Indicators	<ul style="list-style-type: none"> <li>Define the process for identifying bias motivation in a potential hate crime case</li> </ul>	30
7	Exploring Diversity	<ul style="list-style-type: none"> <li>Increase awareness about diversity in the group and in society</li> <li>Develop understanding about the impact of bias, prejudice and harassment</li> </ul>	30
8	Case Studies/Working Groups I: Bias Indicators and Initiating a Hate Crime Case	<ul style="list-style-type: none"> <li>Develop and practice skills in identifying a potential hate crime case for prosecution and relevant investigation methods</li> </ul>	105
9	Conclusions Day 1	<ul style="list-style-type: none"> <li>Share feedback on day one and expectations for day two</li> </ul>	15
10	Recap of Day 1	<ul style="list-style-type: none"> <li>Review concepts covered on day one and discuss outstanding questions</li> </ul>	20

11	Barriers and Solutions to Prosecuting Hate Crimes	<ul style="list-style-type: none"> <li>• Identify the barriers to prosecution</li> <li>• Develop strategies to overcome those barriers</li> </ul>	40
12	Case Studies/Working Groups II: Motive Evidence for Prosecuting Hate Crimes	<ul style="list-style-type: none"> <li>• Develop and practice skills in using evidence to prove bias motivation for convictions and sentencing</li> </ul>	120
13	Closing and Evaluation	<ul style="list-style-type: none"> <li>• Fill out the evaluation questionnaire</li> <li>• Share feedback on the training</li> </ul>	30

